

PATENT
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Jesse Ambrosina, et al.
Title: Method And Apparatus For Thermal Management Of
A Mass Flow Controller
Serial No.: 10/032,258
Filing Date: December 21, 2001
Group Art Unit: 2855
Examiner: H. Patel
Docket Number: 56231-336 (MKS-94)

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Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

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PATENTING REJECTION OVER A PRIOR PATENT

MKS Instruments, Inc., the owner of 100% interest in the instant application, hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as shortened by any terminal disclaimer, of U.S. Patent Nos. 6,668,642 and 6,668,641. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and U.S. Patent Nos. 6,668,642 and 6,668,641 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of U.S. Patent Nos. 6,668,642 and 6,668,641, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R.


1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

The undersigned is an attorney of record.

The Terminal Disclaimer fee under 35 C.F.R. 1.20(d) in the amount of \$110.00 is enclosed herewith. Any fee deficiencies should be charged, or any overpayment should be credited, to Deposit Account No. 50-1133.

Respectfully submitted,

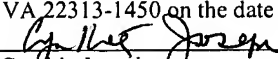


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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

Date: January 29, 2004



Cynthia Joseph